

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1956-02
Bill No.: Perfected HCS for HB 773
Subject: Insurance - General; Insurance Dept.
Type: Original
Date: April 27, 2011

Bill Summary: Amends surplus lines insurance law to comply with the federal Nonadmitted and Reinsurance Reform Act of 2010 (NRRA).

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	Unknown, expected to exceed \$100,000	Unknown, expected to exceed \$100,000	Unknown, expected to exceed \$100,000
Total Estimated Net Effect on General Revenue Fund	Unknown, expected to exceed \$100,000	Unknown, expected to exceed \$100,000	Unknown, expected to exceed \$100,000

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Insurance, Financial Institutions, and Professional Registration (DIFP)** state this legislation may result in annual additional general revenue from taxes on premiums paid for surplus lines insurance. The DIFP bases its assumption on reports for calendar year 2010 in cases where the insured risk was partly allocated to Missouri based on where the insured risk was resident, located or to be performed. Based on these reports, the department estimates that the change from the current allocation method to a method based on the home state of the insured would result in additional surplus lines tax.

This proposal amends the surplus lines insurance laws to comply with the federal Nonadmitted and Reinsurance Reform Act of 2010 (15 U.S.C. Section 8206).

<u>FISCAL IMPACT - State Government</u>	FY 2012	FY 2013	FY 2014
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GENERAL REVENUE FUND

Income - DIFP

Increase in taxes on premiums paid for surplus lines insurance	<u>Unknown,</u> <u>expected to</u> <u>exceed</u> <u>\$100,000</u>	<u>Unknown,</u> <u>expected to</u> <u>exceed</u> <u>\$100,000</u>	<u>Unknown,</u> <u>expected to</u> <u>exceed</u> <u>\$100,000</u>
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ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>Unknown,</u> <u>expected to</u> <u>exceed</u> <u>\$100,000</u>	<u>Unknown,</u> <u>expected to</u> <u>exceed</u> <u>\$100,000</u>	<u>Unknown,</u> <u>expected to</u> <u>exceed</u> <u>\$100,000</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2012	FY 2013	FY 2014
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

HWC:LR:OD

FISCAL DESCRIPTION

This proposal changes the laws regarding the regulation of surplus lines insurance to comply with the federal Nonadmitted and Reinsurance Reform Act of 2010 (NRRA) to bring about uniformity in the licensing of surplus lines insurance professionals, the standards under which surplus lines insurance may be sold, and the taxes that can be collected from the sale of surplus lines insurance. In its main provisions, the proposal: (1) Specifies that surplus lines insurance may be placed by a surplus lines licensee if the insurer is authorized to write the type of insurance in its domiciliary jurisdiction; (2) Changes the requirements and qualifications for a nonadmitted insurer to furnish coverage. A surplus lines licensee must not place coverage with a nonadmitted insurer unless the licensee determines that the nonadmitted insurer: (a) Meets the capital and surplus requirements of Missouri or \$15 million. The Director of the Department of Insurance, Financial Institutions and Professional Registration may waive the financial requirements if the nonadmitted insurer's capital and surplus is at least \$4.5 million and upon an affirmative finding of acceptability by the department director; and (b) Appears on the most recent list or eligible surplus lines insurers published by the department director or on the most recent quarterly listing of alien insurers maintained by the international insurers department of the National Association of Insurance Commissioners (NAIC); (3) Specifies that a surplus lines licensee seeking to procure or place nonadmitted insurance in Missouri for an exempt commercial purchaser cannot be required to satisfy any requirement to make a due diligence search to determine whether the full amount or type of insurance sought by the exempt commercial purchaser can be obtained from nonadmitted insurers if: (a) The surplus lines licensee procuring or placing the surplus lines insurance has disclosed to the exempt commercial purchaser that the insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight; and (b) The exempt commercial purchaser has subsequently requested in writing the surplus lines licensee to procure or place the insurance from a nonadmitted insurer; (4) Changes the licensing requirements for an insurance producer in the surplus lines insurance market. Beginning on or before July 1, 2012, the department director must participate in the national insurance producer database of the NAIC or any other equivalent uniform national database for the licensure of surplus lines licensees and the renewal of the licenses. A person selling, soliciting, or negotiating nonadmitted insurance with respect to an insured must be required to obtain or possess a current surplus lines insurance license issued by the department director only if this state is the insured's home state; (5) Requires every insured or self-insurer whose home state is Missouri who procures surplus lines insurance, other than through a surplus lines broker, to file a report before March 2 with the department director describing the names of the insureds, the subject of the insurance, and other prescribed information. Currently, this is required for every insured in this state; (6) Specifies that only the home state of the insured will have the authority to tax and regulate the placement of these policies, regardless of where risks or portions of the risk are located; (7) Imposes a 5% tax on the entire gross premium for nonadmitted or surplus lines insurance policies for which the home state of the insured is

FISCAL DESCRIPTION (continued)

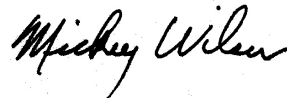
Missouri. Currently, it is based on the net premium; and (8) Specifies that the placement of nonadmitted insurance must be subject to the statutory and regulatory requirements of Missouri law only if this state is the insured's home state. A surplus lines broker is required to be licensed as a surplus lines licensee under the provisions of Chapter 384, RSMo, only if this state is the insured's home state.

Proposal has an emergency clause.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Insurance, Financial Institutions, and Professional Registration

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
April 27, 2011